

SENATE MOTION

MR. PRESIDENT:

I move that Engrossed House Bill 1001(ss) be amended to read as follows:

- 1 Page 50, line 13, delete "The" and insert "**Except as provided in**
- 2 **IC 6-2.2-3 (exempt entities), the**".
- 3 Page 50, line 41, delete "." and insert "**reduced by income that is**
- 4 **exempted from taxation under IC 6-3 by the Constitution and**
- 5 **statutes of the United States.**".
- 6 Page 51, line 9, delete "reduced by income that is exempted" and
- 7 insert "**:**
- 8 **(A) increased or decreased by income, gain, loss, or**
- 9 **deductions of the entity separately stated pursuant to Section**
- 10 **702(a) of the Internal Revenue Code; and**
- 11 **(B) reduced by income that is exempted from taxation under**
- 12 **IC 6-3 by the Constitution and statutes of the United States.**".
- 13 Page 51, delete lines 10 through 11.
- 14 Page 51, line 15, delete "reduced by" and insert "**:**
- 15 **(A) increased or decreased by income, gain, loss, or**
- 16 **deductions of the entity separately stated pursuant to Section**
- 17 **1366(a)(1)(A) of the Internal Revenue Code; and**
- 18 **(B) reduced by income that is exempted from taxation under**
- 19 **IC 6-3 by the Constitution and statutes of the United States.**".
- 20 Page 51, delete lines 16 through 17.
- 21 Page 51, line 20, delete ", the term refers to" and insert "**that differs**
- 22 **from the definitions described in subdivisions (1) through (4), the**
- 23 **term means**".
- 24 Page 51, delete lines 32 through 41, begin a new paragraph and
- 25 insert:
- 26 **"Sec. 7. "Pass through entity" means an entity that under**
- 27 **Section 702(a), Section 1366(a), or any other provision of the**
- 28 **Internal Revenue Code passes through income of the entity to the**
- 29 **owner of the entity and requires the income of the entity to be**

1 included in the income of the owner of the entity, regardless of
2 whether cash or anything of value is distributed to the owner."

3 Page 53, between lines 8 and 9, begin a new paragraph and insert:

4 **"Sec. 10. The following entities are exempt from this article:**

5 (1) A qualified subchapter S subsidiary (as defined in Section
6 1361 of the Internal Revenue Code) that does not elect to be
7 a taxpayer for federal income tax purposes.

8 (2) A qualified REIT subsidiary (as defined in Section 856 of
9 the Internal Revenue Code) that does not elect to be a
10 taxpayer for federal income tax purposes.

11 (3) A limited liability company that has a single member, is
12 disregarded as a taxable entity for federal income tax
13 purposes, and does not elect to be a taxpayer for federal
14 income tax purposes."

15 Page 53, line 28, delete "in Indiana (as defined in IC 6-3-2-2)." and
16 insert "within Indiana as determined by applying:

17 (1) the allocation rules of IC 6-3-2-2, in the case of
18 nonbusiness income; and

19 (2) the apportionment rules of IC 6-3-2-2 in the case of
20 business income.

21 **IC 6-3-2-2 applies to the computation of an entity's taxable**
22 **adjusted gross income, notwithstanding that the entity is not a**
23 **corporation (as defined in IC 6-3-1-10) or a nonresident person (as**
24 **defined in IC 6-3-1-3 and IC 6-3-1-14)."**

25 Page 53, line 39, delete "." and insert "or files a combined return
26 under IC 6-3-2-2 or IC 6-5.5-5-1."

27 Page 53, line 42, after "group." insert "A taxpayer that is a
28 member of a group of entities filing a combined return shall
29 compute taxable adjusted gross income under this article
30 separately as if the taxpayer were not part of the group.

31 **Sec. 5. An exemption of an entity from this article under**
32 **IC 6-2.2-3 does not exempt a taxpayer from taxation under this**
33 **article on pass through income received by the owner of the exempt**
34 **entity, unless the taxpayer also is exempt under IC 6-2.2-3.**

35 **Sec. 6. (a) In computing taxable adjusted gross income, a**
36 **taxpayer is not entitled to a deduction for any loss that:**

37 (1) is deducted in computing the taxpayer's taxable income for
38 the taxable year under Section 702(a), Section 1366(a), or any
39 other provision of the Internal Revenue Code that requires
40 losses of an entity to be passed through and included in the
41 income of the owner of the entity; and

42 (2) is passed through to the taxpayer from the entity that is a
43 taxpayer under this article or from an entity exempt from this
44 article under IC 6-2.2-3.

45 (b) The deductions disallowed by this section shall be added
46 back to the taxpayer's adjusted gross income before the allocations
47 and apportionment provisions of IC 6-3-2-2 are applied in

1 determining adjusted gross income under section 1 of this chapter.

2 Sec. 7. The deductions provided by IC 6-2.2-6 shall be allowed
3 in computing taxable adjusted gross income."

4 Page 54, delete lines 6 through 8, begin a new paragraph and insert:

5 "Sec. 2. The deductions allowed by sections 3 and 4 of this
6 chapter shall be subtracted from the taxpayer's adjusted gross
7 income before the allocation and apportionment provisions of
8 IC 6-3-2-2 are applied in determining the taxpayer's taxable
9 adjusted gross income under IC 6-2.2-5-1.

10 Sec. 3. (a) In computing taxable adjusted gross income, a
11 taxpayer is entitled to a deduction to the extent of any income or
12 gain that:

13 (1) is included in the taxpayer's taxable income for the taxable
14 year under Section 702(a), Section 1366(a), or any other
15 provision of the Internal Revenue Code that requires income
16 or gain of an entity to be passed through and included in the
17 income of an owner of the entity; and

18 (2) is passed through to the taxpayer from an entity that is a
19 taxpayer subject to taxation under this article.

20 (b) The amount that may be deducted under this section shall
21 not be included in either the numerator or the denominator of the
22 taxpayer's sales factor for purposes of applying the allocation or
23 apportionment rules under IC 6-3-2-2 to this article.

24 Sec. 4. In computing taxable adjusted gross income, a taxpayer
25 that is a corporation shall be entitled to the deduction under
26 IC 6-3-2-12 if it meets the qualifications for claiming the deduction
27 under that provision."

28 Page 54, line 24, delete "sections 4 and 5" and insert "section 4".

29 Page 54, delete lines 30 through 36.

30 (Reference is to EHB 1001(ss) as printed June 13, 2002.)

Senator KENLEY